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Holton, John B.

Remedy for strikes and
lockouts

Indianapolis

[c1922]

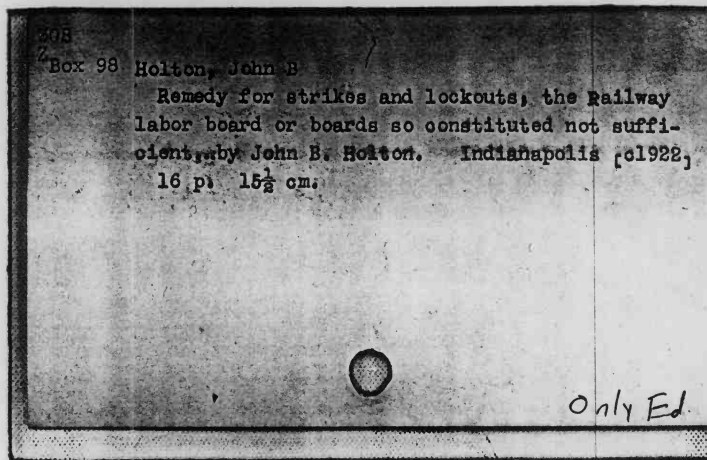
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Office

**Remedy for
Strikes and
Lockouts**

**The Railway Labor Board or
Boards so Constituted
Not Sufficient**

**By JOHN B. HOLTON
INDIANAPOLIS, INDIANA**

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Box 18

Pex

*Presented to
Dr. Nicholas M. Butler
with Compliments of
John B. Holton.*

Remedy for Strikes and Lockouts

THE RAILWAY LABOR BOARD OR BOARDS
SO CONSTITUTED NOT SUFFICIENT

WHAT THE REMEDY WILL ACCOMPLISH

1. A square deal for all concerned.
 2. It will do away with superfluous boards and facilitate and cheapen government.
 3. It assures a fair wage to labor, a remunerative income on wisely invested and well directed capital, and protects the public.
 4. It fosters co-operation and friendly relations between employer and employee, a condition so necessary to the welfare of both.
 5. It will conduce to industrial peace, unstinted progress, and a prosperous and happy state of society.
-

BY

JOHN B. HOLTON

1218 CENTRAL AVENUE, INDIANAPOLIS, IND.

*Former Real Estate and Claim Agent for the Old Bee Line and
Indianapolis & St. Louis Railway Companies*

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INTRODUCTION

To succeed, any scheme for the adjustment of irreconcilable disputes between labor and capital must be so contrived as to assure labor, capital, and the public each a square deal.

The plan presented is intended to accomplish this end, and its economy, practicability, and availability for achieving equity for all concerned, we believe, will be conceded by all unprejudiced minds.

It is fashioned after that of the Federal Courts. These courts have served the people well for more than 133 years, and under them the country has greatly prospered. Appointments to these have been upon the theory of fitness and capability and without reference to any particular class, sect, or party; and to remove them as far as possible from party influence, appointments are made for life or during good behavior. While nobody claims infallibility for courts, no sane person would think of abolishing them because of an occasional error in judgment, any sooner than he would think of destroying capital or abolishing railroads for an occasional mistake that destroys life and property, or of condemning well meaning labor organizations for an occasional rash act. All must agree that impartial courts are indispensable in a well ordered society for checking crime and settling differences. Judicial commissions, or tribunals to be impartial and free from bias must be free from class appointments, and as far as possible, free from political influence; and to be reliably effective

they should have power to enforce their decrees. To rely upon the force of public sentiment, as must the Railway Labor Board for enforcement of its rulings, is not sufficient. Public sentiment is precarious, and at times may be so evenly divided that it would be impossible to interpret it. Had labor and capital, or railroads and their employees to rely solely upon the force of public sentiment to safe-guard their rights, they would find these continuously and greatly imperilled by certain prejudiced, ignorant, and selfish classes, which are ever present in all commonwealths.

Strikes and lockouts are greatly destructive and wholly unnecessary. Labor, capital and the public, too often misled by over-zealous and self-seeking partisans, are shamefully abusing themselves and each other, and not only preventing their own peace and prosperity, but greatly hindering the prosperity of the country.

Remedy for Strikes and Lockouts

Paragraph from Opinion of the U. S. Supreme Court in the Adamson Law case—

"Being of the opinion that Congress had the power to adopt the Act in question, whether it be viewed as a direct fixing of wages to meet the absence of a standard on that subject resulting from the dispute between the parties, or as the exercise by Congress of the power which it undoubtedly possessed to provide by appropriate legislation for compulsory arbitration—a power which inevitably resulted from its authority to protect Interstate Commerce in dealing with a situation like that which was before it, we conclude that the Court erred in holding the statute was not within the power of Congress to enact and in restraining its enforcement and its decree therefore must be and it is reversed and the cause remanded with directions to dismiss the bill."

The purpose in giving this quotation is merely to show that Congress has the right to provide by appropriate legislation for compulsory arbitration as a means for settling irreconcilable disputes between railroads and their employees, or between capital and labor in cases where these disputes would seriously ef-

fect the public welfare by the interruption of interstate commerce.

A retrospect of the past history of disputes between railroads and their employees should be sufficient to lead both to applaud this decision and to uphold it by an appeal to Congress to provide for an impartial tribunal for settling their irreconcilable differences.

The relation of railroads and their employees towards each other in the past has been too much that of aliens and antagonists where it should have been one of mutual concern and co-operation. Their accustomed policy of coercing each other into measures is repugnant to all common sense and reason. Such conduct is more that of the caveman and wild beast of the jungle than that of intelligent human beings. The assertion that railroads and their employees are mutually dependent will not be disputed. The one cannot succeed without the other. It is equally apparent that both are dependent upon the public, as both receive whatever they get through the patronage of the public. The public, on the other hand, is dependent on both and owes both a wholesome living.

To capital it owes just and appropriate compensation on money invested and to labor appropriate wages for services rendered.

Compensation to railroads and their employees comes from rates or charges collected from the public on travel and traffic, the employees receiving theirs through the medium of the railroads. These rates should at all

times be commensurate with the character of the service demanded and received. If the public expects and demands good and safe service it is in duty bound to pay rates that will command such service. It cannot afford to be niggardly in its compensation. If so, it has only the right to expect and to receive niggardly accommodations. These it does not want and should not encourage, as they would put in jeopardy its safety, comfort and progress.

The proper upkeep of roads, rolling stock, stations, terminals, the building and equipment of desirable new lines; and the safe and satisfactory accommodations demanded of railroads by the public, require generous but discreet expenditure.

That railroads, their desirable upkeep and extension have been more or less hampered at times within recent years by unwise legislation is obvious. Complaints of service rendered have been general. Railroads and their employees have chafed and been restive under existing conditions and the public has complained of unsatisfactory accommodations. But to remedy apparent wrongs instead of the practice of resorting to damnable strikes and lock-outs, which stop the wheels of industry, hamper progress, engender strife between railroads and their labor and costs millions in money to capital, labor and the public, why not adopt a course of conciliation, co-operation and common sense? The interests of railroads and their employees are so linked and inseparable that they cannot afford to antagonize each other. The one cannot succeed without the other, and

for desirable success they must pull together and not against each other. Instead of abusing each other as too often has been their practice, an appeal to a properly constituted tribunal to adjust their irreconcilable disputes would show a sane procedure. The way has been provided for such a tribunal in the decision of the Supreme Court above quoted.

SCOPE AND OFFICES OF THE TRIBUNAL

This tribunal should be a court of the nation, free from class and political bias, and one whose decisions would be respected by all of the people. Only through such a court can the ugly, vexatious, and costly situations of the past be avoided.

For instance: If the employees at any time believed wages unfair or inadequate and asked for an increase, and the railroads refused the increase, contending that their business and rates would not warrant it, they, the railroads and their employees instead of combating and worsting each other, as has been their custom, should submit their disputes to a tribunal such as above indicated. This action would show common sense, as well as legal method and good business procedure. Should the tribunal find that the position of the employees was well taken and that rates must be advanced to meet the merits of the case, the public should readily acquiesce.

No fixed rate per cent upon capital invested in railroads should be established by law as such policy tends to discourage the initiative, check competition, and to lead to carelessness

in the matter of providing efficient service. But the income allowed capital should not be less than that invested in other substantial industries; if so, capital would go into the more profitable industries and would shun railroads. The matter of fixing rates should be left primarily to the railroads for reasons above stated and that of fixing wages to the railroads and their employees. Combinations of both railroads and their employees should be permitted but the office of the tribunal should be to see that such combinations were not hurtful to the public, that rates and wages were just, and that all parties concerned had a square deal.

Dividends allowed should be substantially upon a quantum meruit basis. In fixing dividends, attention should be paid to the business done, the efficiency and economy of management, the character of the upkeep of the property, the service rendered and to the welfare of the public.

The tribunal with its subordinate branches should be the last resort in settling disputes between railroads and their employees and only appealed to in cases where an agreement could not be arrived at by the parties under rules devised by them for adjusting their differences. The law should prescribe proper penalties for non-compliance with the tribunal's decrees. Its powers should be ample to cover all work now done by the Interstate Commerce Commission, the Labor Board, or other statutory boards effecting the operation of railroads. A supreme tribunal aided by district tribunals sufficient to handle the business promptly, should be estab-

lished. The present Interstate Commerce Commission it seems would answer the purpose by extending its powers and by creating necessary district branches to aid in doing the work.

The less complicated the machinery of government and the less the government has to do in disputes between labor and capital beyond protecting the rights and welfare of the public the better it would be for labor, capital and the public. Too much paternalism enfeebles a people. It destroys the initiative and conduces to bad government. Hence an unnecessary multiplication of statutory boards or commissions and rules for controlling the operation of railroads or other public utilities should be avoided. Prompt decision is necessary to prompt service and this could be obtained with more readiness, at much less expense and inconvenience under the plan proposed than through boards and commissions as now located and constituted. An appeal from the district tribunals to the supreme tribunal should be provided.

The status in any case existing at the time the dispute arose should continue until a final decision of the matter in controversy.

Rates for equal service rendered should be uniform so far as practicable but competition for business, and for economy and efficiency in management should be encouraged by putting the income of the roads as suggested upon a quantum meruit basis.

Railroads and their employees, or capital and labor, must remember they are parts of the public and that they as well as their fellow

citizens, are equally interested in maintaining equitable laws and good government. The laborers of today, or many of them, will be the capitalists of the future, and this fact labor should keep in mind.

Any law enacted giving to labor or capital temporary advantage, would like Banquo's ghost, rise up to haunt and harrass them or their posterity in the future.

Laws favoring any particular class are iniquitous and if permitted, will work the overthrow of safe and desirable government. All must admit that if any country is incapable of enacting and maintaining laws that will prevent strikes and lockouts or other industrial disturbances which threaten the welfare and safety of the commonwealth or of the nation, that country is in great danger. For instance, a lockout or a strike that would stop transportation throughout the country for a few weeks, where ample food and fuel had not been provided, would greatly distress and imperil the people. That intelligent labor and capital, as well as all prudent and patriotic citizens desire to avoid such calamity is taken for granted. Then, how better can we do this than by providing an impartial and non-political tribunal for the adjustment of irreconcilable controversies?

While decisions of the tribunal in some instances might not be altogether to one's liking, such a tribunal seems indispensable for the proper protection of labor, capital and the public, and for the uninterrupted progress and welfare of the nation.

To inspire confidence this tribunal should be made up of men of undisputed integrity, of broad and practical experience; men who can readily grasp the facts, promptly interpret their meaning and who would do justice to labor, railroads and the public. Certain specified and well-defined qualifications fitting the members of the tribunals for the position should be required, and persons without the qualifications should not be considered. Its members should be paid competent salaries and they should serve during good behavior. They should be appointed by the president of the United States and confirmed by the Senate.

A tribunal established along the lines above suggested could be trusted to dispense justice, and the refusal of either railroads or their employees to accept such an arrangement would indicate they did not seek justice, but some personal or class advantage. What we need and all we need is equal justice and not class legislation. We must have law and order or we will have anarchy. Both labor and capital would fare far better under such plan than at present. The rights and interests of both would be as secure as is humanly possible to make them; and time, energy and money wasted in strikes and lockouts would be saved. Under such plan capital would find it to its advantage to have labor organize provided labor would see to it that only patriotic, just and capable men were placed at the heads of its organizations. Railroads and other industries would find it easier and more satisfactory to deal with their employees through wise and

honest leaders than with each employee individually. The policy of "live and let live" and reliance upon the law, and not force, to settle their disputes should govern. Labor dispute boards with nothing but public sentiment to sustain their rulings are not sufficient. Selfish and unscrupulous interests too often have little regard for public sentiment. Moreover, the dominant public sentiment is liable to be surcharged with a large element of ignorant and prejudiced classes which would make it an unfit arbiter in labor dispute cases. Again, it could easily happen that public sentiment was so equally divided on the matter at issue that it would be impossible to interpret it, hence, it would be of no avail.

Certainly, intelligent labor, capital and the public can see how very unwise, unsafe and unsatisfactory it would be to risk a matter of so great importance to the whims of public sentiment.

Labor or capital never gains anything by ignoring or threatening to strike against a judicial decision. To do so only prejudices its case with the people. The proper and only alternative against a judicial decision is to submit, or appeal to a higher court. The adjustment of irreconcilable differences between man and man through its courts is the American way and it is the only way, unless we want to retrograde to a race of barbarians and resort to the use of clubs and guns. This is unthinkable, and the cause of labor and capital is certainly doomed in any case where either would refuse to submit to the decrees of impartial courts

constituted for settling their irreconcilable differences. The laws of the jungle can never prevail with an enlightened people.

If the figures showing the costs of strifes and strikes in the history of railroads in the United States and the inconveniences of the public were collaborated, they would be unbelievable and appalling. These losses could have been all saved by conciliation and co-operation, and through a tribunal of the kind advocated.

Had a law compelling railroads and their employees to submit their irreconcilable disputes to a commission or court for adjustment been in force fifty years ago, what a boon it would have been to railroads, their employees and the public. The numerous strikes and controversies which have cost capital, labor and the public millions of dollars, sometimes life, and often valuable property, could have been averted. With such courts once established, all like good American citizens would accept the situation, the night-mare of strikes and lockouts would disappear and uninterrupted peace, prosperity and progress in the industrial world would follow.

The right of railroads, or their employees, or of labor and of capital to submit at any time their disputes to the tribunal provided, should be recognized, but failure to do this should give the public the right, through its duly constituted authorities to institute suit to settle disputes in all cases where public rights were seriously involved, or jeopardized.

SUMMARY OF BENEFITS OF THE PROPOSED POLICY

1. It will do away with superfluous boards and facilitate and cheapen government.
2. It will prevent those ugly and disastrous strikes and lockouts which so often cost life, and millions in money and property.
3. It assures a fair wage to labor, a remunerative income on wisely invested and well directed capital and protects the public.
4. It fosters co-operation, and friendly relations between employer and employee, a condition so necessary to the peace and welfare of both.
5. It will conduce to industrial peace, unstinted progress, and a prosperous and happy state of society.

PUBLIC UTILITIES OF THE STATES

For the adjustment of irreconcilable disputes between capital and labor, and for the good of the commonwealth, it would seem advisable that the states should enact statutes of the nature of the above outlined, under which their public utilities could be operated. The constitutional right to enact such a statute can hardly be questioned, since to protect life, liberty, property and the pursuit of happiness is the fundamental purpose of all constitutions and all laws.

The right to strike or to institute a lockout is not denied, but for the abuse of the right

every one should be held responsible. The right of any one to burn down his own house cannot be denied, but when to do so would destroy his neighbor's house, the act becomes a criminal one. When the individual act would clearly infringe the rights of one's fellow-citizen or contribute to his hurt or to that of the public, it becomes illegal.

Though strikes and lockouts may be justified in some instances, when they imperil the peace, comfort and welfare of the community, or of the commonwealth, it is an infraction of public rights which for the good of labor, capital and the public should not be countenanced or tolerated.

Without courts to settle the irreconcilable disputes arising in a commonwealth or a nation, what would become of the commonwealth or nation? There is only one answer to this question. Both would be overwhelmed in the social disorder that would follow, labor and capital would become worthless, and desolation would possess the land. As already stated in the preceding pages; while decisions of the courts in some cases may not be altogether to one's liking, courts, in a civilized community are indispensable to the protection of life, liberty, property and the pursuit of happiness.

The End.

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